

Exhibit 19

Deposition of Joseph Silva

(June 7, 2017)

(excerpted)

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CUNG LE; NATHAN QUARRY, JON)
FITCH, on behalf of)
themselves and all others)
similarly situated,)
)
Plaintiffs,)
)
vs.) Case No.
) 2:15-cv-01045-RFB-(PAL)
)
ZUFFA, LLC, d/b/a Ultimate)
Fighting Championship and)
UFC,)
)
Defendant.)
)

VIDEOTAPE DEPOSITION OF JOSEPH SILVA

Richmond, Virginia

June 7, 2017

8:11 a.m.

Reported by:
KIMBERLY L. RIBARIC, RPR, CCR
JOB NO. 50374

<p style="text-align: right;">98</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 And the problem with something like this, 4 too, is it's not just the Gomi part. How would I 5 bring that to Khabib? I'm looking at Khabib's side 6 of it. He's going, I'm highly ranked, I would like 7 to get in position to fight for a title, and beating 8 Gomi is not going to help me elevate myself.</p> <p>9 Q. So top fighters, like Khabib, who was 10 number 4 at the time, he's going to want to fight 11 other top fighters in order to get a chance to 12 contend for the title; correct?</p> <p>13 MR. ISAACSON: Objection. Calls for 14 speculation.</p> <p>15 A. Correct.</p> <p>16 Q. What ended up happening here, do you 17 remember?</p> <p>18 A. I don't recall. I don't remember who Gomi 19 went on to fight.</p> <p>20 Q. And -- and just so I'm clear, one way a 21 fighter can become a contender is by defeating 22 higher-ranked opponents?</p> <p>23 A. Yes.</p> <p>24 Q. And so if you keep defeating higher-ranked 25 opponents, eventually you'll be able to fight for the</p>	<p style="text-align: right;">100</p> <p>1 SILVA</p> <p>2 Q. I'm sorry, 25 to 26.</p> <p>3 And in particular, the text that was sent to 4 you dated 2/27/15 at 18:07. So at the very bottom of 5 the page. And I believe the --</p> <p>6 MR. ISAACSON: I'm sorry, bottom of which 7 page?</p> <p>8 MR. CRAMER: Bottom of page 25.</p> <p>9 MR. ISAACSON: Oh, there. I see it.</p> <p>10 Yeah.</p> <p>11 MR. CRAMER: There's a blank, the blanks 12 are Silva.</p> <p>13 MR. ISAACSON: Okay.</p> <p>14 MR. CRAMER: I'll represent to you that 15 the blanks are Silva.</p> <p>16 Q. And the from is (720) 470-9009. 17 Do you recognize that phone number? 18 Is that John Crouch?</p> <p>19 A. I don't know.</p> <p>20 Q. Okay. Who is John Crouch?</p> <p>21 A. John Crouch is a trainer and manager.</p> <p>22 Q. Okay. We believe it's John Crouch. If -- 23 if the context allows you to confirm that for me, 24 please do.</p> <p>25 So the person who texted to you on 2/27/15</p>
<p style="text-align: right;">99</p> <p>1 SILVA</p> <p>2 championship; is that right?</p> <p>3 A. The -- what -- the one problem with that is 4 in a match-up somebody is always going to be ranked 5 lower.</p> <p>6 Q. Right.</p> <p>7 A. So it's not that you can't still elevate off 8 a lower, but it's how much lower.</p> <p>9 Q. I see. So if your -- if your goal as a 10 fighter is to contend for the title, you -- you do, 11 in general, want to continue to fight top-ranked 12 opponents; is that right?</p> <p>13 A. Correct.</p> <p>14 MR. CRAMER: Okay. All right. I'd like 15 to mark as Silva Exhibit 6 the next text 16 compilation.</p> <p>17 (Silva Deposition Exhibit 6 marked for 18 identification.)</p> <p>19 Q. All right. This is -- this compilation is 20 Bates ZFL-2699690. And this document was produced by 21 Zuffa to us as a compilation of text messages that 22 had been pulled from your phone. And the interchange 23 I'd like to ask you about is on page 24 to 25 of 24 Exhibit 6, so 24 of 163.</p> <p>25 MR. MADDEN: It's 25 to 26.</p>	<p style="text-align: right;">101</p> <p>1 SILVA</p> <p>2 at 18:07 said: "What did you think of the Ben v. 3 Tyron match-up."</p> <p>4 And you say: "I like it."</p> <p>5 And he responded: "Think we could do five 6 rounds? Would like to have some time to wear these 7 guys down."</p> <p>8 And you say: "Probably not. Only main 9 events are five rounds and those are i stalky main 10 events or the highest ranked, biggest draws 11 available. We have main events locked in through 12 June."</p> <p>13 Can you recall that you sent at least the 14 last text there, the "probably not"? Does that sound 15 like you?</p> <p>16 A. Yeah. I don't dispute it.</p> <p>17 Q. Okay. And you -- "i stalky" looks like an 18 i-correct or some kind of --</p> <p>19 A. Yeah, it has later on, it says, like, "darn 20 auto correct."</p> <p>21 Q. Yeah. So what -- what did you think 22 "i stalky" meant?</p> <p>23 A. (Reading.) I'm not sure. But what I was 24 telling him, as said in the last sentence, was that 25 we already had all the main events through that time</p>

<p style="text-align: right;">102</p> <p>1 SILVA 2 period locked in. 3 Q. Okay. So I just want to understand some of 4 the context here, if I might. 5 A. Uh-huh. 6 Q. Is it correct that when selecting -- well, 7 what are main events? Let's start there. 8 A. It's the final fight of the show, the 9 most -- the -- the show you're kind of putting the 10 most promotion and advertising on -- 11 Q. And that's -- 12 A. -- fight -- 13 Q. That's the main fight that you use as the 14 draw to the event? 15 A. Yes. 16 Q. And in those main events, you look to use 17 the biggest drawing fighters; correct? 18 A. That are available at the time, yes. 19 Q. That are -- okay. That are available at the 20 time. And those include some of the highest-ranked 21 fighters; correct? 22 A. Sometimes. 23 Q. Why is it that you seek to populate the main 24 events with the biggest draws as fighters? 25 A. Because you would like people to buy tickets</p>	<p style="text-align: right;">104</p> <p>1 SILVA 2 better-known fighters; is that fair? 3 A. Yes. 4 Q. All right. If you turn to -- one second. 5 All right. Turn to page 2 of the compilation, 6 please, Silva Exhibit 6. And if I could draw your 7 attention to -- to a text that was sent to you dated 8 January 31st, 2015, at 1:46 p.m., sort of in the 9 middle of the page. The blanks, again, are you. And 10 this was sent to you by (856) 297-2465. And I'll 11 represent to you that that is Rob Haydak, Paul 12 Felder's representative. 13 A. Okay. 14 Q. Does that ring a -- is that -- did you know 15 that that was his phone number? 16 A. No. I don't know any phone number because 17 it's cell phones, I just hit the name. 18 Q. Exactly. Okay. Understood. 19 But we believe that that is Rob Haydak. 20 A. Okay. 21 Q. Who is Paul Felder? 22 A. He is a lightweight fighter in the UFC. 23 Q. And Paul Felder is a fighter representative; 24 is that right? I'm sorry, Rob Haydak -- 25 A. Rob Haydak is.</p>
<p style="text-align: right;">103</p> <p>1 SILVA 2 to it, to tune in on TV to watch it. And they're 3 going to want to see the biggest stars that you have. 4 Q. And if you have an event that doesn't have a 5 top level, headlining match-up, that could hurt the 6 ability of the event to attract an audience; is that 7 fair? 8 A. It is. And that does happen. As I said, 9 it's about what's available. You may want a bigger 10 fight for a card, but if people are injured or get 11 married or whatever -- you have to work with what you 12 have. 13 Q. And you'd like to have -- as a matchmaker, 14 you'd like to have the -- a complete stable of 15 top-level fighters that are available to fight so you 16 can create headlining events; correct? 17 MR. ISAACSON: Objection. Objection to 18 form. 19 A. That would be ideal. 20 Q. Okay. And you would not headline an MMA 21 event at the UFC with two lesser-known or 22 lower-ranked fighters if you could help it; correct? 23 A. If you could help it. 24 Q. And that's because that kind of event would 25 not draw as much fan interest as one with</p>	<p style="text-align: right;">105</p> <p>1 SILVA 2 Q. -- is a fighter representative? 3 A. Yes. 4 Q. Okay. And he's someone who you've dealt 5 with from time to time -- 6 A. Yes. 7 Q. -- or you did when you were at UFC? 8 Okay. And he asks: "Do you still need 9 someone for Thatch?" 10 And you answer: "Who do you have?" 11 And then there are -- I'd like you to -- you 12 say: "Jonavin Webb 7 and 0." 13 And then he says: "If you need me for Feb 14 am there." 15 And you say -- 16 A. I think that's somebody else. 17 Q. Somebody else. Different one. 18 So let's go to C -- I think your answer here 19 is: "CFFC champ. Teammate with Felder." 20 This is from -- I'm sorry. This is from 21 Haydak to you. 22 A. Uh-huh. 23 Q. He says, CFS -- "CFFC champ." -- 24 A. Uh-huh. 25 Q. -- "Teammate with Felder. Trains with</p>

<p style="text-align: right;">106</p> <p>1 SILVA</p> <p>2 Cerrone. Very tough."</p> <p>3 "It's a main event. I need a name guy,</p> <p>4 preferably one who has fought in the UFC."</p> <p>5 I'm sorry, I skipped over. So he says:</p> <p>6 "CFFC champ. Teammate with Felder. Trains with</p> <p>7 Cerrone. Very tough."</p> <p>8 And then you respond: "It's a main event.</p> <p>9 I need a name guy, preferably one who has fought in</p> <p>10 the UFC."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. What is CFFC?</p> <p>14 A. It's a promotion, fighting promotion.</p> <p>15 Q. And --</p> <p>16 A. Like cage fighting -- fighting championship,</p> <p>17 something like that.</p> <p>18 Q. Okay. So it's a promotion.</p> <p>19 And Mr. Haydak is -- is offering to you a</p> <p>20 fighter who was one of Felder's teammates who trains</p> <p>21 with Cerrone for the fight. Is that what was going</p> <p>22 on?</p> <p>23 A. Yes. He's trying to establish his pedigree.</p> <p>24 Q. I see. Says, he's very tough.</p> <p>25 And then -- and that -- and then you say to</p>	<p style="text-align: right;">108</p> <p>1 SILVA</p> <p>2 that's popular with fans and that's well known; is</p> <p>3 that fair?</p> <p>4 MR. ISAACSON: Objection to form.</p> <p>5 A. That's -- ideally it's always a sliding</p> <p>6 scale, as maybe my text will show. I go, this is</p> <p>7 what I'm looking for; and as time is going by, it's,</p> <p>8 okay, well, what's the next step down. What's the</p> <p>9 next step down. You do the best that you can. You</p> <p>10 have your ideal for it, but then you quite often have</p> <p>11 to settle for less.</p> <p>12 Q. And you prefer name guys who've fought in</p> <p>13 the UFC for main events because they tend to be</p> <p>14 people who are proven and high-quality fighters; is</p> <p>15 that fair?</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. They at least have a name awareness from UFC</p> <p>18 fans. They go, I know who this guy is.</p> <p>19 Q. And so those fighters who have a UFC</p> <p>20 pedigree will generate more fan interest?</p> <p>21 A. It's not only that. It's also that people</p> <p>22 know, as I had brought up earlier, that competing in</p> <p>23 your first UFC, even for high-level guys, tends to be</p> <p>24 a difficult thing. They have what the commentators</p> <p>25 term "the UFC jitters." For somebody like Quinton</p>
<p style="text-align: right;">107</p> <p>1 SILVA</p> <p>2 him: "It's a main event. I need a name guy,</p> <p>3 preferably one who has fought in the UFC."</p> <p>4 What were you trying to convey to</p> <p>5 Mr. Haydak?</p> <p>6 A. That ideally in the situation what I was</p> <p>7 looking for is somebody who people were familiar with</p> <p>8 since this was the main event.</p> <p>9 Q. And why did you -- why were you telling him</p> <p>10 that you wanted preferably someone who had fought in</p> <p>11 the UFC?</p> <p>12 A. So that fans would have that name</p> <p>13 recognition, why is this guy in the main event?</p> <p>14 Q. And it was your -- you were trying to convey</p> <p>15 that more likely a name guy is going to be someone</p> <p>16 who has a pedigree where he was already established</p> <p>17 in the UFC?</p> <p>18 A. Yes. If you're going to be a main event of</p> <p>19 the UFC, it would make sense that you most likely</p> <p>20 already fought in the UFC.</p> <p>21 Q. Okay. And it's fair to say that in</p> <p>22 selecting main events, you -- you need a name guy,</p> <p>23 generally; is that right?</p> <p>24 A. As best as you can do.</p> <p>25 Q. And a name guy generally means a fighter</p>	<p style="text-align: right;">109</p> <p>1 SILVA</p> <p>2 "Rampage" Jackson, who competed in Pride in front of</p> <p>3 huge crowds, still his first UFC he said he had UFC</p> <p>4 jitters and it's hard.</p> <p>5 So it's a tough situation to put somebody</p> <p>6 into for the first UFC. It's like, hey, you're not</p> <p>7 just making your UFC debut, you're in the main event.</p> <p>8 It's more rounds that you may not be used to. It's a</p> <p>9 tough thing. So you would prefer not to do that.</p> <p>10 Q. So you don't want to take someone who has</p> <p>11 fought in another promotion and may have been</p> <p>12 successful in that other promotion, but -- and -- and</p> <p>13 stick them directly in a main event where they would</p> <p>14 potentially be jittery if they were fighting for</p> <p>15 the --</p> <p>16 A. It's happened. And there are some who've</p> <p>17 done well, but there's also some who've complained.</p> <p>18 There's some who are like, wow, that was -- turned</p> <p>19 out to be an issue. But they would have sworn</p> <p>20 beforehand that it was not going to be an issue. But</p> <p>21 you don't know till you're there.</p> <p>22 But what I like to do is give people the</p> <p>23 best chance to succeed. I'm not trying to get</p> <p>24 anybody to win, but I'm trying to give them the best</p> <p>25 chance to do as well as they can.</p>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	SILVA give you this much money, we either have to give them as much money or we have to let them go. [REDACTED]	186	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	SILVA fighters in the lightweight class that would be able to give Gaethje an appropriate test? A. No. I think -- as I stated earlier, I think -- he was in the lightweight division, which I think is the deepest division in the world. Q. Uh-huh. A. I think that pretty much everybody has a decent one, but then to truly stand out -- it's not that you're not good, but you're just amongst the best. The worst lightweight that I have is pretty darn good. They're not getting by just on their size. There's so many, just to be in at all you -- you must be at -- at a high level of talent. So it -- it's not that they didn't have good ones, but they did not generally have as many recognized people. With them competing amongst themselves, not as many had yet stood out, where Melvin Guillard was simply a known quantity. Q. Because he had been at the UFC? A. He'd been at the UFC, but he'd also fought in other shows around the world too. Q. Right. A. He's -- he's a veteran and he'd been around	188
13 14 15 16 17 18 19 20 21 22 23 24 25	Q. All right. And -- and waiting 15 months without fighting is a long time in a fighter's career; correct? MR. ISAACSON: Objection to form. A. Depends on the fighter. Q. Well, fighters are independent contractors; correct? A. Yes. Q. And they -- they pay -- in general, they pay for their own health insurance; correct? A. We have a form of health insurance, yeah. Q. But that health insurance doesn't cover their families, for example; right?	13 14 15 16 17 18 19 20 21 22 23 24 25	12 13 14 15 16 17 18 19 20 21 22 23 24 25		189
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	SILVA A. No. Q. And that they have to pay for their trainer; right? A. Generally the trainers will take a percentage from their purse. So if they're not getting a purse, then no. Q. The trainers aren't paid by the UFC; correct? A. No. Q. Correct, they're not paid by the UFC? A. Correct. Q. UFC doesn't pay fighters' trainers directly; correct? A. Correct. Q. And the fighters, in general, pay for their own meals while they're training; correct? A. Correct. Q. And their own travel while they're training; correct? A. Correct. Q. When you said that the world's -- when you said that Gaethje's first real test coming up was Melvin Guillard, is it fair to say that the World Series of Fighting didn't have a lot of other	187	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	SILVA and you knew of him, so he -- he made for a good measuring stick. Q. And the World Series of Fighting at that time, in the lightweight division, may have had a lot of other talented fighters, but it didn't have a lot of other known quantities like Melvin Guillard; correct? A. Correct. Q. All right. Back to Exhibit 4, which is one of these -- here -- one of these text message compilations. Turn to page 39 of Exhibit 4. All right. I'd like -- this is from -- this is the compilation of text messages that was produced to us by Zuffa that I think came from Dana White's phones, and I'm referring to a series of texts from November 11th, 2014. And there is a text at 2:30:24 that I'd like to refer to, from you to (702) 686-1092. A. Uh-huh. Q. Is that Dana White? A. I believe so. Q. Okay. So you say to Dana White on November 14, 2014, at 2:30 in the afternoon: "Melvin Guillard missed weight for his WSOF title fight. Now	189

<p style="text-align: right;">190</p> <p>1 SILVA</p> <p>2 non title and supposedly Gaethje demanded 50 percent</p> <p>3 of his purse and got it."</p> <p>4 And then White says, "Where is the fight" --</p> <p>5 A. Tampa, Florida.</p> <p>6 Q. And Tampa, Florida.</p> <p>7 And then there's an e-mail [sic] that --</p> <p>8 that you send to White that says: "In the press</p> <p>9 conference the day before he said he is an A level</p> <p>10 fighter fighting in a B level show. Never was the</p> <p>11 smartest guy."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What did you mean when you said that Gaethje</p> <p>15 said he was an A-level fighter fighting in a B-level</p> <p>16 show?</p> <p>17 A. I don't think I was talking about Gaethje, I</p> <p>18 think I was talking about Melvin Guillard.</p> <p>19 Q. Okay. Guillard. So what did you mean when</p> <p>20 you said --</p> <p>21 A. I thought he was being disrespectful to the</p> <p>22 promotion that he's fighting in.</p> <p>23 Q. I see. So he was disrespecting World</p> <p>24 Series.</p> <p>25 A. Right. It's like they're giving you a shot</p>	<p style="text-align: right;">192</p> <p>1 SILVA</p> <p>2 Bellator so he wouldn't have to fight wrestlers like</p> <p>3 in the UFC."</p> <p>4 A. Uh-huh.</p> <p>5 Q. And then Silva -- and then you say -- Shelby</p> <p>6 says: "LOL. I just love how Bellator is a</p> <p>7 tournament based organi... Wait. What's going on?"</p> <p>8 And then you say: "2 guys who both lost</p> <p>9 their last 3 UFC fights."</p> <p>10 And then Shelby says: "Headlining a</p> <p>11 pay-per-view with two guys combined losing 9 of their</p> <p>12 last 10 fights."</p> <p>13 And then Shelby says: "Sorry last three a</p> <p>14 piece they total zero and six, 0 and 6."</p> <p>15 And then Shelby says: "They tried to throw</p> <p>16 a curve ball but it went into the stands."</p> <p>17 And you say to Shelby: "Dana is going to</p> <p>18 have fun smashing that matchup publicly."</p> <p>19 Do you see that?</p> <p>20 A. Yeah.</p> <p>21 Q. And then -- and then Shelby says to you:</p> <p>22 "Bellator throws a curve ball... Into the stands. In</p> <p>23 Bellator there is no matchmaking, except in their</p> <p>24 'was relevant 5 years ago' division."</p> <p>25 And Shelby then says to you: "It's almost</p>
<p style="text-align: right;">191</p> <p>1 SILVA</p> <p>2 and paying you good money, and you're publicly saying</p> <p>3 they're a B-level show, that doesn't seem very smart.</p> <p>4 Q. I see. So he was publicly dissing the World</p> <p>5 Series of Fighters --</p> <p>6 A. Yeah, who was giving them -- him a world</p> <p>7 title shot and -- and promoting him. I -- it was</p> <p>8 boggling to me. But Melvin -- he would be a nice</p> <p>9 guy, but he was a troubled guy. And that's just what</p> <p>10 I was saying. It's like a -- what's this kid doing.</p> <p>11 Q. Thank you. You can put that aside.</p> <p>12 All right. Let's turn back to Exhibit 13,</p> <p>13 page 275. And 13 is the compilation of text messages</p> <p>14 from Sean Shelby, and these are texts that were sent</p> <p>15 7/31/13. 275.</p> <p>16 All right. So the first message that I want</p> <p>17 to ask -- to show you is July 31st, 2013, at 1650, or</p> <p>18 4:50. Yeah, so 4:50. Tito versus Rampage. So it's</p> <p>19 the one that says, "Tito versus Rampage."</p> <p>20 A. Uh-huh.</p> <p>21 Q. And this is you saying to Shelby: "Tito</p> <p>22 versus Rampage. We might as well just close up shop</p> <p>23 now."</p> <p>24 And then -- and then you -- and then</p> <p>25 somebody else says: "Good thing Rampage went to</p>	<p style="text-align: right;">193</p> <p>1 SILVA</p> <p>2 too easy."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. All right. So both of you are communicating</p> <p>6 about a Bellator show that had just -- that was about</p> <p>7 to occur; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And that show was going to be headlined by</p> <p>10 Tito and Rampage?</p> <p>11 A. Yes.</p> <p>12 Q. Tito who?</p> <p>13 A. Ortiz.</p> <p>14 Q. Tito Ortiz. And Rampage Jackson?</p> <p>15 A. Correct.</p> <p>16 Q. Were both of those fighters who used to be</p> <p>17 in the UFC?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And Rampage went from the UFC to --</p> <p>20 oh, sorry.</p> <p>21 Rampage went from the UFC to Bellator; is</p> <p>22 that right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And you were saying it's a good thing</p> <p>25 Rampage went to Bellator so he wouldn't have to fight</p>

	366		368
1	SILVA	1	SILVA
2	run, it's like, how would I justify that to the other	2	that I'm offering them. And if you're not performing
3	fighter. He could point that out and I'd have to go,	3	as well, it would make sense that your compensation
4	you have a point there.	4	would be below those who are performing well.
5	Q. Right. And in general, you believed you had to adhere as closely as possible to the structure of -- of compensation so that you didn't confront the next guy, saying why did you overpay this guy, I'm better than him; is that fair?	5	Q. In your experience, fighters want to know they are being treated -- or you want to be able to tell fighters that they're being treated fairly relative to other fighters at similar skill levels and records; right?
10	MR. ISAACSON: Objection. Misstates his	10	MR. ISAACSON: Objection. Misstates the
11	testimony. Objection to form.	11	testimony.
12	Q. I didn't mean to misstate. So if I said something you didn't agree with, let me know.	12	Q. I'm asking. Is that right?
13	A. I think anytime that you try to renegotiate,	13	A. I would like people to believe that I am
14	you're going to give your point of view, the	14	dealing with them fairly.
15	manager's job is to give their point of view, and you	15	Q. And one way you -- you convey to them, the managers and fighters that you're negotiating with, that you're dealing with them fairly is to honestly tell them where you believe they fit, their compensation fits, relative to other fighters at their level; correct?
16	try to work it out.	16	MR. ISAACSON: Objection to "their level."
17	For me, I like being able to justify. I	17	Q. Is that right?
18	don't -- I'm not saying here's just random numbers,	18	A. That's correct.
19	accept them unquestioningly. It's like, here's my	19	Q. And you negotiated with hundreds of fighters during your career at the UFC; correct?
20	rationale for it, and it's a rationale that I'm also	20	
21	going to have to apply to other people who are	21	
22	involved in this as well.	22	
23	Q. Right. Your compensation system isn't -- isn't random; that would be a problem for you,	23	
	367		369
1	SILVA	1	SILVA
2	wouldn't it?	2	A. Probably more than a thousand, I would
3	A. Yes.	3	think.
4	Q. When you say "everyone knows what everyone makes," what do you mean by that?	4	Q. And you experienced often fighters or their representatives trying to negotiate, as you just said, using compensation levels of other fighters they believed were similar to their guy; right?
5	A. That if I was to increase Bang's contract --	5	A. Right. And that can be where you can have a
6	most of the managers out there -- quite a few of the	6	difference of opinion of where I'm going, I think
7	managers anyways, they do research, they're looking	7	that he is similar to this guy, this guy, they can
8	at what's being posted that the -- what these guys	8	counter and go, we don't see him as similar to that
9	are making. So if somebody was to see in his next	9	guy, we see him as similar to this guy.
10	fight the disparity in what he got paid this time as	10	So then that's -- it's still -- it's a
11	opposed to last time, they -- just red flags would go	11	matter of opinion. I try to present what I think
12	up.	12	I -- are the facts I have to back up my argument.
13	It's like, wait, how, after coming off of	13	But sometimes in -- there have been times where a
14	two losses and a questionable decision, did his pay	14	outlier has been pointed out to me, where I'll go,
15	jump up that much, that people look and research	15	this is what I think is fair because this is what
16	that.	16	other guys -- and they'll make a case of, wait a sec
17	Q. Right. And so if you were to jump someone's	17	now, look what he did here, this is outside of that,
18	pay up above what a comparable person believes they	18	and I've gone, you've actually got a point, I'll up
19	should be paid, that would cause you problems with	19	it.
20	other fighters; right?	20	It's not rare because I usually do my
21	MR. ISAACSON: Objection. Form. You're	21	homework pretty well on these. But there has been
22	being vague.	22	occasions like, I missed out on that, you are
23	A. Yeah, I think that I want to reward	23	
24	performance and be able to justify the -- the numbers	24	
25		25	

<p style="text-align: right;">370</p> <p>1 SILVA 2 correct, I would not want to hurt my credibility by 3 acting like what they have in black and white is not 4 true. 5 Q. So if you -- if they brought to you like 6 what you have described as an outlier, where some 7 fighter may have diverted from what you thought they 8 should have gotten based on their background and 9 their skill level, you'd -- you'd certainly -- 10 sometimes you would hear it from the fighters or 11 their representatives about that outlier; right? 12 A. Yes. 13 Q. And if, by creating that outlier, that 14 sometimes causes other fight -- you have to then 15 raise the compensation then of some other fighters 16 because you made that one mistake; is that right? 17 A. Well -- well, you'd have to -- one, I don't 18 know I'd say it was a mistake. And it's -- it's a 19 matter of opinion. And that I did deals, Sean did 20 deals, Dana did deals, Lorenzo did deals, and 21 everybody's judgment is different. So you have to 22 weigh those in. So that's all people who are getting 23 deals in the UFC. 24 But a manager's job is to negotiate the best 25 deal that they can. And my job is to try to</p>	<p style="text-align: right;">372</p> <p>1 SILVA 2 You said 16, I asked for 18. Could you agree to 17?" 3 He says that towards the bottom. 4 A. Uh-huh. 5 Q. And then you say on December 9, 2010: "Not 6 trying to be a dick but no. Everyone knows what 7 everyone makes. Our purses are public. I have to 8 justify everyone's pay to everyone else." 9 Do you see that? 10 A. Yes. 11 Q. What did you mean by that, "I have to 12 justify everyone's pay to everyone else"? 13 A. I feel it was important in my job to 14 actually engage with people and not just dictate to 15 them. So if somebody was going to say, what about 16 this guy, I would have to engage that and not go, too 17 bad. 18 Q. Right. 19 A. I'd have to go, okay, you've got a point, 20 let's try and figure this out. So, yeah, I'm just 21 making him aware of that. 22 Q. Right. And so you wanted to make sure that 23 you did your best to try to make sure that comparable 24 fighters with comparable records are getting paid 25 comparable amounts; is that fair?</p>
<p style="text-align: right;">371</p> <p>1 SILVA 2 negotiate a deal that I thought was fair. 3 Q. So if -- if, for example, Shelby had been -- 4 had been systematically kind of paying fighters a bit 5 more than you did or Dana was systematically paying 6 comparable fighters a little bit more than you did, 7 you then might feel pressure then to kind of pay 8 fighters more because you would be hearing from reps 9 about comparables from Dana or Shelby; is that right? 10 A. I'm sure it would be brought up. 11 Q. So if -- if there are some -- if one of the 12 three of you are kind of raising the level per 13 equivalent fighter, that's going to put pressure on 14 that third person to kind of raise as well? 15 A. I don't think it's pressure in that me and 16 Sean did the vast majority of deals, and me and Sean 17 were in constant communication every day and knew 18 what each other were doing. So it's not like I was 19 going, Sean, what are you doing here? We knew. But 20 we would still, on our own, choose to, let's move 21 people up, we feel like it's time to do it. 22 So Dana and Lorenzo did do deals, but they 23 did, like I said, maybe 10, 15 percent of deals. 24 Q. Yeah, if you turn to the first page of this 25 document, Bean says: "Can you meet me in the middle?"</p>	<p style="text-align: right;">373</p> <p>1 SILVA 2 MR. ISAACSON: Objection. Form. 3 A. Yeah, that was my goal. 4 Q. And one of the reasons why you did that is 5 because you had to justify everyone's pay to everyone 6 else, and if you -- if you were doing this poorly or 7 inefficiently, you'd constantly have fighters 8 demanding more money, they'd say, hey, wait, you paid 9 this guy this much and that guy that much, and you 10 wouldn't be able to justify to them if -- if you 11 hadn't been doing this well; is that right? 12 A. It would just seem unfair to give somebody 13 something that somebody else, equally deserving, 14 didn't get. 15 Q. And you attempted, at least in your mind, to 16 be fair, to impose a sense of equity between the 17 different fighters; correct? 18 A. I did. 19 Q. All right. You can put that document aside. 20 MR. CRAMER: Like to mark the next 21 document as Silva Exhibit 38. 22 (Silva Deposition Exhibit 38 marked for 23 identification.) 24 Q. Silva 38 is a series of e-mails bearing the 25 Bates range ZFL-2641095 through 1099. The one at the</p>

<p style="text-align: right;">378</p> <p>1 SILVA</p> <p>2 Q. So I think it's Lorenzo and Shelby.</p> <p>3 And Schaub was a UFC fighter; is that right?</p> <p>4 A. Correct.</p> <p>5 Q. And in your opinion, he was asking to be</p> <p>6 paid more than fighters who were highly ranked than</p> <p>7 him?</p> <p>8 A. That I thought had accomplished more than he</p> <p>9 had.</p> <p>10 Q. And so because he was asking to be paid sort</p> <p>11 of out of the level that you thought should be paid</p> <p>12 to comparable fighters, you were saying that he</p> <p>13 should not get the amount that he asked for; is that</p> <p>14 right?</p> <p>15 A. Yes. That was my opinion.</p> <p>16 Q. What ended up happening, do you know?</p> <p>17 A. I think that he ended up signing a new deal</p> <p>18 and fighting after that, but I -- I'd have to look.</p> <p>19 There was a time when he was not -- ended up not</p> <p>20 fighting for us, but I don't recall if it was at the</p> <p>21 end of this or not. I don't recall --</p> <p>22 Q. Okay.</p> <p>23 A. -- the time frame.</p> <p>24 Q. All right. You can put that aside.</p> <p>25 And I believe you testified that the</p>	<p style="text-align: right;">380</p> <p>1 SILVA</p> <p>2 contract, it's just faster to put them back in there</p> <p>3 quickly than if you're starting from scratch. So you</p> <p>4 just always knew. It's like, as many of those guys</p> <p>5 that you have like that, the better to -- to keep the</p> <p>6 shows moving smoothly.</p> <p>7 Q. Was it your -- were you aware whether Shelby</p> <p>8 also in -- was -- strike that.</p> <p>9 Was it your understanding that Shelby also</p> <p>10 had a practice of negotiating after the third fight</p> <p>11 of a four-fight deal?</p> <p>12 A. I think we were somewhat similar. I think,</p> <p>13 for Sean's might have been a little bit different</p> <p>14 because before I retired, we were both matchmakers</p> <p>15 but I was doing more fights than he was. So he had</p> <p>16 less spots on the show, so he had to have even</p> <p>17 tighter rein over the amount of fighters that he had.</p> <p>18 So he might have been more willing to just have</p> <p>19 fighters fight out their deal because we were</p> <p>20 concerned about making sure not to have too many</p> <p>21 under contract. And he had less spots to play with</p> <p>22 on a show than I did.</p> <p>23 Q. I see.</p> <p>24 Who is Ryan Parsons?</p> <p>25 A. He's an MMA manager.</p>
<p style="text-align: right;">379</p> <p>1 SILVA</p> <p>2 standard Zuffa contract was for four bouts, but that</p> <p>3 you typically renegotiated before the last fight?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And is it fair to say that fighters</p> <p>6 rarely fought out the last fight in their contract</p> <p>7 without negotiating a new contract?</p> <p>8 A. No, it would happen. More times than not</p> <p>9 they would want a new deal. But they -- there</p> <p>10 were certainly -- there's lots of examples of people</p> <p>11 who just, no, I'm going to do it.</p> <p>12 Even Roy Nelson in that aforementioned fight</p> <p>13 with Stipe, that was his last fight under contract.</p> <p>14 He lost to Stipe and they still signed him to a new</p> <p>15 deal.</p> <p>16 Q. And when you -- you're describing your --</p> <p>17 your practice of negotiating after the third fight</p> <p>18 before the last fight in a contract. Was that an</p> <p>19 informal Zuffa policy, to your understanding, or</p> <p>20 that's just something that you did, that was just</p> <p>21 your practice?</p> <p>22 A. I think it was kind of informal. But</p> <p>23 there's an -- that you have a bunch of shows that</p> <p>24 you're doing, and there's constant dropouts, so speed</p> <p>25 became paramount, and if somebody is already under</p>	<p style="text-align: right;">381</p> <p>1 SILVA</p> <p>2 Q. And was he a representative for Patrick</p> <p>3 Cummins?</p> <p>4 A. Yes.</p> <p>5 MR. CRAMER: All right. I'd like to mark</p> <p>6 as Silva Exhibit 39 the next document.</p> <p>7 (Silva Deposition Exhibit 39 marked for</p> <p>8 identification.)</p> <p>9 Q. So at the top of this -- this e-mail is</p> <p>10 dated May 5th, 2015, the one at the top. This --</p> <p>11 this is a one-page document with two e-mails with the</p> <p>12 Bates number ZFL-0977248. And there's an e-mail from</p> <p>13 you to Mr. Parsons.</p> <p>14 Did you send that e-mail?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And you write: "I'm not" -- "I'm not</p> <p>17 locking him into a long term deal."</p> <p>18 And you say: "It's just a 4 fight deal and</p> <p>19 I always renegotiate before the last fight just like</p> <p>20 I am doing now. So 3 fights and we talk again."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. So this is an instance of you enacting your</p> <p>24 practice of negotiating before the last fight; is</p> <p>25 that right?</p>

<p style="text-align: right;">394</p> <p>1 SILVA 2 The Ultimate Fighter, so the fight was already 3 promised. The fight's out, but yet if he chose to, 4 Serra could choose to let his old contract just 5 expire and have no obligation to do that fight. 6 Q. You say: "It's always a bad position for us 7 to be in counting on that new agreement while time is 8 ticking away on the old one." 9 Is what you meant there that you'd rather 10 have a new agreement executed before the old one 11 expires? 12 A. Well, if -- when it's a situation where you 13 have an already announced fight, which was here, 14 that's definitely not a good situation. You -- 15 you're not going to possibly deliver on something you 16 promised publicly. 17 Q. So Zuffa doesn't want to be embarrassed by 18 publicly promising a fight and then not having the 19 fight happen? 20 A. Yes. 21 Q. Is it also the case, though, that one of the 22 reasons why you try -- it's your practice to try to 23 negotiate with a fighter after the third fight in a 24 four-fight deal, is to not be in a situation where a 25 contract is expiring without a new one having been</p>	<p style="text-align: right;">396</p> <p>1 SILVA 2 Connette dated November 16, 2011. 3 A. Uh-huh. 4 Q. And Mersch says in the second paragraph: 5 "Before someone fights for a UFC championship we 6 would likely have them locked into a longer term 7 deal. Additionally, if a fighter is successful under 8 a 4 fight deal, we typically negotiate a new 9 agreement after the 3rd fight so he never will see 10 the end of his contract and, assuming the fighter is 11 successful, or at least competitive, that is the 12 process that will continue thereafter." 13 Do you see that? 14 A. Yes. 15 Q. Is -- is Mr. Mersch accurately describing 16 the practice at Zuffa with regard to renegotiating 17 contracts after the third fight and before the fourth 18 fight? 19 A. That's not how I would put it. 20 Q. So Mersch puts it differently than you 21 would? 22 A. Yes. 23 Q. All right. You can put that document aside. 24 MR. CRAMER: I'd like to mark the next 25 document as Silva Exhibit 43.</p>
<p style="text-align: right;">395</p> <p>1 SILVA 2 signed? 3 A. That's not as much of a problem unless we 4 didn't get them their number of fights. Then we 5 would have to pay them for whatever unfulfilled. If 6 it expired and there were still fights left on their 7 contract, we would be responsible to still pay them 8 for the fights we did not get them before expiration. 9 Q. All right. You can put that document aside. 10 MR. CRAMER: All right. I'd like to mark 11 as the next document Silva Exhibit 42. 12 (Silva Deposition Exhibit 42 marked for 13 identification.) 14 Q. Silva 42 is a November 2011 e-mail exchange 15 between Michael Mersch and Michael Connette, it bears 16 the Bates range ZFL-1404974 through 4978. 17 I believe I asked you this before, but 18 Connette was a representative for UFC fighter Mark 19 Hunt; is that right? 20 A. Yeah. I believe it's Connette. 21 Q. Connette. So Connette was a representative 22 for Hunt? 23 A. Yes. 24 Q. Turn to the bottom of the third page of this 25 series of e-mails. There's an e-mail from Mersch to</p>	<p style="text-align: right;">397</p> <p>1 SILVA 2 (Silva Deposition Exhibit 43 marked for 3 identification.) 4 Q. Silva 43 is a one-page series of e-mails 5 dated [sic] ZFL-14121551. The e-mail at the bottom 6 of the page is from Cesar Gracie dated Tuesday, 7 April 20, 2010. It's to Mr. Silva, and the subject 8 is Nick Diaz. 9 Do you see that? 10 A. Yes. 11 Q. And you received that e-mail? 12 A. Yes. 13 Q. And Nick Diaz was a UFC fighter? 14 A. Yes. 15 Q. And you were making -- I'm sorry. 16 And Mr. Gracie, on behalf of Nick Diaz, was 17 negotiating with you for a new contract; is that 18 right? 19 A. Yes. 20 Q. And he requests 33/33, 36/36, and 39/39, or 21 alternatively a one-year contract at 42/42. 22 Do you see that? 23 A. No. He's saying he wants the -- the three 24 fights he doesn't think we can get him more than a 25 year, so it would be that much for a year. But if</p>

<p style="text-align: right;">398</p> <p>1 SILVA</p> <p>2 you could get him a fourth fight, we'd do that at 42</p> <p>3 plus 42.</p> <p>4 Q. I see.</p> <p>5 A. That's what he's saying.</p> <p>6 Q. I see.</p> <p>7 And then he says: "These numbers are</p> <p>8 substantially less than what Strikeforce will offer."</p> <p>9 Do you see that?</p> <p>10 A. Yes, that's what he's saying.</p> <p>11 Q. And then you say to White and Fertitta right</p> <p>12 above that -- you forward the below e-mail on</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have an understanding about why</p>	<p style="text-align: right;">400</p> <p>1 SILVA</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. So you're saying that if Diaz turns down the</p> <p>8 offer which was being made before Diaz's last fight,</p> <p>9 you were going to put him at a really bad position on</p> <p>10 a card against a tough fight -- tough guy?</p> <p>11 A. It's not in a bad position on the card.</p> <p>12 Everybody has to -- if you want to fight in a show,</p> <p>13 you only have so many positions, so you're going to</p> <p>14 be somewhere. But I'm -- am I going to give that</p> <p>15 spotlight more to somebody who I'm already building</p> <p>16 their next fight or somebody fighting their last</p> <p>17 fight. You have to make that choice.</p> <p>18 If he agreed to sign the deal, I still have</p> <p>19 to decide where to put him. That they still could be</p> <p>20 in the prelims. On a Pay-Per-View, you only have 5</p> <p>21 main hard fights out of 13. So outside of those 5</p> <p>22 bout -- main fight -- bout fights, the rest are</p> <p>23 prelims. The majority of fights are prelims. To go,</p> <p>24 you're going to put him in a really bad position,</p> <p>25 doesn't make sense.</p>
<p style="text-align: right;">399</p> <p>1 SILVA</p> <p>2 Mr. Fertitta thought that Mr. Diaz would be willing</p> <p>3 to take less money from the UFC than from</p> <p>4 Strikeforce?</p> <p>5 A. Well, he explains it in the next --</p> <p>6 MR. ISAACSON: Objection. Calls for</p> <p>7 speculation.</p> <p>8 A. Explains it in the next sentence.</p> <p>9 Q. What was it? What does he say?</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 Q. I see. So Strikeforce might guarantee him</p> <p>17 more, but --</p> <p>18 A. Right.</p> <p>19 Q. -- but in the UFC, you'll have the</p> <p>20 opportunity to get discretionary bonuses?</p> <p>21 A. And he had a history of making.</p> <p>22 Q. Okay. And then you respond to White and</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>	<p style="text-align: right;">401</p> <p>1 SILVA</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 Q. So in exchange for Diaz not giving you and</p> <p>21 the UFC a commitment to -- to re-up on a new</p> <p>22 contract, you're going to -- you're going to put him</p> <p>23 in a prelim and still give him a tough guy, is that</p> <p>24 right, to fight?</p> <p>25 A. He's only ever fought tough guys even when</p>

<p style="text-align: right;">402</p> <p>1 SILVA 2 he fought in the prelims before, so, yes, it would 3 not be different or unusual.</p> <p>4 Q. And so your testimony here today, under 5 oath, is that when you said, if they turn it down, I 6 put him in a prelim against a really tough guy for 7 his fight, you did not mean that that would be in a 8 sense punitive for him turning down the deal?</p> <p>9 A. It's not punitive.</p> <p>10 Q. Is your testimony also that if he accepted 11 the deal, you would still put him in a prelim against 12 a really tough guy for his last fight?</p> <p>13 A. No. Then he'd fight a really tough guy, but 14 most likely be featured, because we have future 15 fights with him to promote him.</p> <p>16 Q. So fighters -- it's fair to say that a 17 fighter who was offered a deal before their last 18 fight, reasonably anticipate that if they don't 19 accept that deal before their last fight, they would 20 be in a worse position than if they accept the deal, 21 not just because they get paid less money for that 22 last fight, but also because their not giving Zuffa a 23 commitment meant that Zuffa was not going to give 24 them a favored position on a card; is that fair?</p> <p>25 A. No. It just depends on the circumstance.</p>	<p style="text-align: right;">404</p> <p>1 SILVA 2 everything's fine, he's not on his last fight, he's 3 just on his regular one, some cards are very good and 4 you are agonizing over who goes where, who gets those 5 main card slots or not. And that Sean has fighters 6 of his and he wants to get them face time, make them 7 seem important and put there, so I'm trying to take 8 his needs into consideration. Who does Dana think is 9 main-card worthy. Who does Lorenzo.</p> <p>10 There's a lot that goes into it. So we 11 have -- but we have shown that in the past there's 12 people who are in this situation still ended up main 13 card, and there's ones who didn't. It just depends 14 on the situation.</p> <p>15 Q. But all things being equal, you'd more 16 likely give someone a better position on a card if 17 they agree to commit to more fights and to a -- 18 another contract than if they don't; right?</p> <p>19 A. If they're name -- name worthy enough to be 20 on the main card.</p> <p>21 Q. Right. So if --</p> <p>22 A. And somewhere on the bubble.</p> <p>23 Q. So someone who's name worthy enough to be on 24 the main card, all things being equal, you'd give 25 them the better position relative to others if they</p>
<p style="text-align: right;">403</p> <p>1 SILVA 2 That was this particular circumstance. As with the 3 Roy Nelson circumstance, he still fought, might have 4 been a co-main event. It just depends on the 5 circumstance of the card.</p> <p>6 On this particular card, it was a strong 7 card. On the one that Roy Nelson was, it was not a 8 strong card, so it's like, well, there is still 9 space. We're not going to be punitive and cut off 10 our nose to spite our face and put him on a prelim on 11 a card that's not as strong.</p> <p>12 On this particular card, it was a strong 13 card, and it's like, yeah, it's not hurting us for 14 him to be -- he'd be the main event of the prelims, 15 which is still a good position, that's a fight that 16 would be on FS1 and seen by over a million people. 17 And then you still could get that -- that they 18 advertise that, so you still could get promotion out 19 of it. But it's like, am I going to put him over the 20 other five guys on a strong card with no commitment 21 to him. It's like, I'd rather use that time on the 22 guys that I do.</p> <p>23 Q. Have a commitment on --</p> <p>24 A. And you alway -- and each one, you still 25 have to make that choice. Even when he -- if</p>	<p style="text-align: right;">405</p> <p>1 SILVA 2 agreed to commit to another contract than if they 3 didn't agree; correct?</p> <p>4 A. Depending on the card.</p> <p>5 Q. Depending on the card.</p> <p>6 But all things equal. So everything's 7 equal. What --</p> <p>8 A. Anytime everything's equal, anything that's 9 unequal makes the difference.</p> <p>10 Q. Right. And so this is something that would 11 make the difference; right?</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 Q. All right. You can put that document aside.</p> <p>21 By the way, did you tell Mr. Diaz or his 22 representative that if they did not re-sign a new 23 contract what position they would get on the card?</p> <p>24 A. I don't recall.</p> <p>25 Q. Was it the case that sometimes you, in the</p>

